



February 19, 2014

ENGROSSED

HOUSE BILL No. 1342

DIGEST OF HB 1342 (Updated February 17, 2014 11:41 am - DI 84)

Citations Affected: IC 6-6; IC 6-8.1; IC 13-11; IC 13-20; IC 13-22; IC 13-23; IC 13-25; IC 35-51.

Synopsis: Environmental fees and expenses. Provides that the hazardous waste disposal fee (which replaces the hazardous waste disposal tax), the fee on the disposal or incineration of solid waste, and the annual registration fee paid by owners of underground storage tanks shall be collected by the department of environmental management instead of the department of state revenue. Provides that 75% of the revenue from the hazardous waste disposal fee shall be deposited in the hazardous substance response fund and 25% shall be paid over to the county in which the hazardous waste is disposed of. Allows the commissioner of the department of environmental management, under certain circumstances, to authorize the modification of a restrictive covenant that the owner of a property contaminated with a hazardous substance has been required to execute and record. Provides for the administrative and personnel expenses incurred by the state in evaluating a proposed modification of a restrictive covenant to be paid from the hazardous substances response trust fund, and requires the environmental rules board to adopt rules providing for the recovery of those expenses by the state. Removes references to the solid waste management board, which was abolished on January 1, 2013.

Effective: July 1, 2014.

Wolkins

(SENATE SPONSORS — CHARBONNEAU, LONG, RANDOLPH)

January 15, 2014, read first time and referred to Committee on Environmental Affairs.
January 23, 2014, reported — Do Pass.
January 29, 2014, read second time, amended, ordered engrossed.
January 30, 2014, engrossed. Read third time, passed. Yeas 90, nays 0.

SENATE ACTION

February 4, 2014, read first time and referred to Committee on Environmental Affairs.
February 18, 2014, reported favorably — Do Pass.

EH 1342—LS 7041/DI 55



February 19, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1342

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-6-6.6 IS REPEALED [EFFECTIVE JULY 1,
2 2014]. (Hazardous Waste Disposal Tax).
3 SECTION 2. IC 6-8.1-1-1, AS AMENDED BY P.L.277-2013,
4 SECTION 15, AND AS AMENDED BY P.L.288-2013, SECTION 68,
5 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2014]: Sec. 1. "Listed taxes" or "taxes" includes
7 only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the
8 riverboat admissions tax (IC 4-33-12); the riverboat wagering tax
9 (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the type II
10 gambling game excise tax (IC 4-36-9); the gross income tax (IC 6-2.1)
11 (repealed); the utility receipts and utility services use taxes (IC 6-2.3);
12 the state gross retail and use taxes (IC 6-2.5); the adjusted gross income
13 tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the
14 county adjusted gross income tax (IC 6-3.5-1.1); the county option
15 income tax (IC 6-3.5-6); the county economic development income tax
16 (IC 6-3.5-7); the auto rental excise tax (IC 6-6-9); the financial

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institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); ~~the alternative fuel permit fee (IC 6-6-2.1)~~; the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); ~~the aviation fuel excise tax (IC 6-6-13)~~; the commercial vehicle excise tax (IC 6-6-5.5); the excise tax imposed on recreational vehicles and truck campers (IC 6-6-5.1); the hazardous waste disposal tax (IC 6-6-6.6) **(repealed)**; the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the regional transportation improvement income tax (IC 8-24-17); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); ~~the underground storage tank fee (IC 13-23)~~; ~~the solid waste management fee (IC 13-20-22)~~; and any other tax or fee that the department is required to collect or administer.

SECTION 3. IC 6-8.1-4-1.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.6. Subject to the discretion of the commissioner as set forth in section 1 of this chapter, the commissioner shall establish within the department a special tax division. The division shall do the following:

- (1) Administer and enforce the following:
 - (A) Gasoline tax (IC 6-6-1.1).
 - (B) Special fuel tax (IC 6-6-2.5).
 - (C) Motor carrier fuel tax (IC 6-6-4.1).
 - ~~(D) Hazardous waste disposal tax (IC 6-6-6.6).~~
 - ~~(E)~~ **(D)** Cigarette tax (IC 6-7-1).
 - ~~(F)~~ **(E)** Tobacco products tax (IC 6-7-2).
 - ~~(G)~~ **(F)** Alcoholic beverage tax (IC 7.1-4).
 - ~~(H)~~ **(G)** Petroleum severance tax (IC 6-8-1).
 - ~~(I)~~ **(H)** Any other tax the commissioner designates.
- (2) Upon the commissioner's request, conduct studies of the department's operations and recommend whatever changes seem advisable.
- (3) Annually audit a statistical sampling of the returns filed for the taxes administered by the division.
- (4) Annually audit a statistical sampling of registrants with the



bureau of motor vehicles, international registration plan division.

(5) Review federal tax returns and other data that may be helpful in performing the division's function.

(6) Furnish, at the commissioner's request, information that the commissioner requires.

(7) Conduct audits requested by the commissioner or the commissioner's designee.

(8) Administer the statutes providing for motor carrier regulation (IC 8-2.1).

SECTION 4. IC 13-11-2-57 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 57. "Disposal", for purposes of environmental management laws, means the:

(1) discharge;

(2) deposit;

(3) injection;

(4) spilling;

(5) leaking; or

(6) placing;

of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

(b) "Disposal", for purposes of IC 13-29-1, means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

(c) "Disposal", for purposes of IC 13-22-12-3.5, means all forms of disposal in or on the land, including underground injection.

SECTION 5. IC 13-11-2-57.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 57.2. "Disposal facility", for purposes of IC 13-22-12-3.5, means a site where hazardous wastes are disposed of in or on the land, including a site associated with, within, or adjacent to facilities generating the waste.**

SECTION 6. IC 13-11-2-99 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 99. (a) "Hazardous waste", for purposes of section 96(a) of this chapter, IC 13-19, and environmental management laws, means a solid waste or combination of solid wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

(1) cause or significantly contribute to an increase in:

(A) mortality;

(B) serious irreversible illness; or



(C) incapacitating reversible illness; or

(2) pose a substantial present or potential hazard to:

(A) human health; or

(B) the environment;

when improperly treated, stored, transported, disposed of, or otherwise managed.

(b) "Hazardous waste", for purposes of IC 13-22-10, includes a waste determined to be a hazardous waste under IC 13-22-2-3(b).

(c) "Hazardous waste", for purposes of IC 13-22-11, has the meaning set forth in the federal Resource Conservation and Recovery Act (42 U.S.C. 6903(5)), as in effect January 1, 1989.

(d) "Hazardous waste", for purposes of IC 13-22-12-3.5, includes any waste that:

(1) meets the definition set forth in subsection (a);

(2) is determined to be hazardous under the criteria developed under IC 13-22-2-3(a); or

(3) is included on the list compiled and maintained by the board under IC 13-22-2-3(b).

SECTION 7. IC 13-11-2-232.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 232.8. "Ton", for purposes of IC 13-22-12-3.5, means a short ton.**

SECTION 8. IC 13-20-22-1, AS AMENDED BY P.L.131-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. ~~(a) Unless the legislative body of a county having a consolidated city elects by ordinance to participate in the rules, ordinances, and governmental structures enacted or created under this chapter, the collection of fees on the disposal of solid waste in a final disposal facility located in that county are exempt until December 2, 2008; from regulation or control under this chapter.~~

~~(b)~~ **(a)** A fee is imposed on the disposal or incineration of solid waste in a final disposal facility in Indiana. Except as provided in section 14 of this chapter, the amount of the fee is as follows:

(1) For solid waste generated in Indiana and delivered to a final disposal facility in a motor vehicle having a registered gross vehicle weight greater than nine thousand (9,000) pounds, fifty cents (\$0.50) a ton.

(2) For solid waste generated outside Indiana and delivered to a final disposal facility in a motor vehicle having a registered gross vehicle weight greater than nine thousand (9,000) pounds:

(A) fifty cents (\$0.50) a ton; and

(B) if the ~~solid waste management~~ board has adopted rules



- 1 under subsection (c), an additional amount imposed under the
 2 rules.
- 3 (3) For solid waste generated in Indiana or outside Indiana and
 4 delivered to a final disposal facility in:
- 5 (A) a motor vehicle having a registered gross vehicle weight
 6 of not more than nine thousand (9,000) pounds; or
 7 (B) a passenger motor vehicle (as defined in IC 9-13-2-123);
 8 fifty cents (\$0.50) for each load delivered by the motor vehicle.
- 9 ~~(c)~~ **(b)** The ~~solid waste management~~ board may adopt rules to
 10 establish and impose a fee on the disposal or incineration of solid waste
 11 that is:
- 12 (1) generated outside Indiana; and
 13 (2) disposed of or incinerated in a final disposal facility in
 14 Indiana.
- 15 If rules are adopted under this subsection, the fee shall be set at an
 16 amount necessary to offset the costs incurred by the state or a county,
 17 municipality, or township that can be attributed to the importation of
 18 the solid waste into Indiana and the presence of the solid waste in
 19 Indiana.
- 20 ~~(d)~~ **(c)** Revenue from fees collected under subsection ~~(b)(1)~~ **(a)(1)**
 21 and ~~(b)(2)(A)~~ **(a)(2)(A)** shall be deposited in the state solid waste
 22 management fund established by section 2 of this chapter. Revenue
 23 from fees collected under subsection ~~(b)(2)(B)~~ **(a)(2)(B)** shall be
 24 deposited in the hazardous substances response trust fund established
 25 by IC 13-25-4-1, except that any part of the revenue that the board
 26 finds is necessary to offset costs incurred by counties, municipalities,
 27 and townships shall be distributed to solid waste management districts
 28 pro rata on the basis of the district's population.
- 29 ~~(e)~~ **(d)** If solid waste has been subject to a fee under this section, the
 30 total amount of the fee paid shall be credited against any other fee to
 31 which the solid waste may later be subject under this section.
- 32 ~~(f)~~ **(e)** A fee may not be imposed upon material used as alternate
 33 daily cover pursuant to a permit issued by the department under 329
 34 IAC 10-20-13.
- 35 SECTION 9. IC 13-20-22-4 IS REPEALED [EFFECTIVE JULY 1,
 36 2014]. ~~Sec. 4: An owner or operator of a final disposal facility~~
 37 ~~responsible for collecting the fees imposed under section 1 of this~~
 38 ~~chapter shall register with the department of state revenue. To register~~
 39 ~~with the department of state revenue, the owner or operator must do the~~
 40 ~~following:~~
- 41 ~~(1) Pay a registration fee of twenty-five dollars (\$25);~~
 42 ~~(2) File a verified registration form containing the following:~~



(A) The registrant's name and address.

(B) The name and address of each final disposal facility owned or operated by the registrant.

(C) Any additional information that the department of state revenue reasonably requires.

SECTION 10. IC 13-20-22-5 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 5: (a) The department of state revenue may require a registrant under section 4 of this chapter to file a surety bond:

(1) in an amount determined by the department of state revenue of:

(A) not less than two thousand dollars (\$2,000); and

(B) not more than three (3) months tax liability for the registrant as estimated by the department of state revenue; and

(2) conditioned upon:

(A) the keeping of records; and

(B) the making of full and complete reports and payments;

as required by this chapter.

(b) If the registrant files a bond, the bond must:

(1) be with a surety company or financial institution approved by the department of state revenue; and

(2) name:

(A) the registrant as the principal; and

(B) the state as the obligee.

SECTION 11. IC 13-20-22-6 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 6: (a) The department of state revenue may require a registrant under section 4 of this chapter to furnish a current financial statement with the registration form:

(b) After registration, the department of state revenue may require a registrant to periodically furnish a current financial statement. If the registrant's financial condition warrants an increase in the surety bond, the department of state revenue may require the registrant to furnish an increased bond.

(c) The department of state revenue may require an audited financial statement under this section.

SECTION 12. IC 13-20-22-7 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 7: The department of state revenue shall issue a registration card to each registrant under section 4 of this chapter who complies with this chapter. The registration card shall be prominently displayed at each place in Indiana where the registrant is engaged in business as an owner or operator of a final disposal facility.

SECTION 13. IC 13-20-22-8 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 8: (a) Sixty (60) days after making a written request for



1 release to the department of state revenue; the surety of a bond
 2 furnished by a registrant under section 5 of this chapter is released from
 3 any liability to the state accruing on the bond after the sixty (60) day
 4 period. The release does not affect any liability accruing before the
 5 expiration of the sixty (60) day period.

6 (b) The department of state revenue shall promptly notify the
 7 registrant furnishing the bond that a release has been requested. The
 8 registrant must:

9 (1) obtain a new bond that meets the requirements of section 5 of
 10 this chapter; and

11 (2) file with the department of state revenue a new bond within
 12 the sixty (60) day period.

13 (c) The department of state revenue shall cancel the registration for
 14 failure to submit a new bond within the sixty (60) day period.

15 SECTION 14. IC 13-20-22-9 IS REPEALED [EFFECTIVE JULY
 16 1, 2014]. Sec. 9: (a) The department of state revenue may, after a
 17 hearing, cancel a registration issued to an owner or operator of a final
 18 disposal facility if the owner or operator does any of the following:

19 (1) Files a false monthly report of the information required by this
 20 chapter.

21 (2) Fails or refuses to file a monthly report required by this
 22 chapter.

23 (3) Fails or refuses to pay the full amount of the fee imposed by
 24 this chapter on or before the due date established by section 11 of
 25 this chapter.

26 (4) Fails or refuses to comply with IC 6-8.1-5-4.

27 (5) Knowingly removes or alters a sign posted by the department
 28 of state revenue under section 17 of this chapter.

29 (6) Fails or refuses to have on file a valid bond; as required by
 30 section 5 or 8 of this chapter.

31 (7) Fails to honor a subpoena issued under IC 6-8.1-3-12.

32 (b) The department of state revenue shall notify the owner or
 33 operator at least fifteen (15) days before the date set for the hearing of
 34 the proposed cancellation. The notice must be sent by registered mail
 35 to the last known address of the owner or operator. The owner or
 36 operator may appear at the time and place given in the notice to show
 37 cause why the registration should not be canceled.

38 SECTION 15. IC 13-20-22-10 IS REPEALED [EFFECTIVE JULY
 39 1, 2014]. Sec. 10: A person registered under this chapter may make a
 40 written request to the department of state revenue to cancel the person's
 41 registration. The department of state revenue may cancel the
 42 registration sixty (60) days from the date of the written request if before



1 cancellation the person has:

2 (1) paid all fees, penalties, and interest accruing under this
3 chapter or IC 13-9.5-5 (before its repeal); and

4 (2) surrendered to the department of state revenue the:

5 (A) registration certificate issued under this chapter or
6 IC 13-9.5-5 (before its repeal); and

7 (B) any additional copies of the registration.

8 SECTION 16. IC 13-20-22-11 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) The owner or
10 operator of a final disposal facility is responsible for collecting the fees
11 imposed under section 1 of this chapter from persons delivering solid
12 waste to that facility.

13 (b) Each owner or operator may:

14 (1) deduct from the fees an amount equal to one percent (1%) of
15 the fees collected; and

16 (2) retain this amount as compensation for collecting and
17 remitting the fees;

18 if the fees collected and the reports required under subsection (e) are
19 timely remitted and filed.

20 (c) If:

21 (1) the fees collected are remitted; or

22 (2) the required report is filed;

23 after the due date, the owner or operator shall remit all fees collected
24 to the department. ~~of state revenue.~~

25 (d) The owner or operator shall remit the remainder of the fees that
26 the owner or operator collects during a month to the department ~~of state~~
27 ~~revenue~~ not later than ten (10) days after the last day of the month in
28 which the fees are collected.

29 (e) The owner or operator of a final disposal facility shall file
30 monthly reports with the department concerning the fees collected
31 under this section. The department shall adopt a form for these reports.
32 An owner or operator shall use the form in reporting to the department.

33 SECTION 17. IC 13-20-22-12 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12. Each month the
35 department ~~of state revenue~~ shall deposit the following:

36 (1) Not less than fifty percent (50%) of the revenue from the fee
37 imposed under section ~~1(b)(1)~~ **1(a)(1)** of this chapter into the
38 Indiana recycling promotion and assistance fund established in
39 IC 4-23-5.5-14.

40 (2) Not more than fifty percent (50%) of the revenue from the fee
41 imposed under section ~~1(b)(1)~~ **1(a)(1)** of this chapter into the
42 fund.



(3) The revenue from the fee imposed under section ~~1(b)(2)~~
1(a)(2) of this chapter into the hazardous substance response trust
 fund established by IC 13-25-4-1.

SECTION 18. IC 13-20-22-17 IS REPEALED [EFFECTIVE JULY
 1, 2014]. Sec. 17: (a) If any of the following conditions occur, the
 department of state revenue may post a sign at a solid waste disposal
 site that prohibits further transactions involving solid waste disposal at
 the site:

(1) An owner or operator of a final disposal facility becomes
 delinquent in payment of any amount due under this chapter:

(2) There is evidence that the revenue of an owner or operator of
 a final disposal facility is in jeopardy:

(3) An owner or operator of a final disposal facility is operating
 without the registration required by this chapter:

(4) An owner or operator of a final disposal facility is operating
 without the bond required by this chapter:

(5) An owner or operator of a final disposal facility continues to
 operate the final disposal facility after the registration of the
 owner or operator has been canceled under this chapter:

(b) The department of state revenue may require that the sign posted
 under this section must remain posted until the owner or operator of the
 final disposal facility does all of the following:

(1) Files all reports and pays in full the fees and penalties imposed
 by this chapter:

(2) Pays in full the interest and penalties imposed under
 IC 6-8.1-10-1 and IC 6-8.1-10-2.1:

(3) Obtains the registration required by this chapter:

(4) Provides the bond required by this chapter:

SECTION 19. IC 13-20-22-19, AS AMENDED BY P.L.158-2013,
 SECTION 189, IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2014]: Sec. 19. A person who knowingly or
 intentionally fails to pay the fee to the department of state revenue
 under section 11 of this chapter commits a Level 6 felony.

SECTION 20. IC 13-20-22-20 IS REPEALED [EFFECTIVE JULY
 1, 2014]. Sec. 20: (a) A person who, without authorization:

(1) removes;

(2) alters;

(3) defaces; or

(4) covers;

a sign posted by the department of state revenue under section 17 of
 this chapter commits a Class B misdemeanor. However, the offense is
 a Level 6 felony if the offense is committed with the intent to evade the



1 fee imposed by this chapter or to defraud the state:

2 (b) An owner or operator of a final disposal facility shall notify the
3 department of state revenue not later than two (2) days after
4 discovering that a sign posted by the department has been removed;
5 altered; defaced; or covered:

6 (c) An owner or operator of a final disposal facility who fails to
7 notify the department under subsection (b) commits a Class B
8 misdemeanor:

9 SECTION 21. IC 13-22-12-1 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. Notwithstanding the
11 fees established under IC 13-16-1, the hazardous waste:

12 (1) permit application fees;

13 (2) annual operation fees; ~~and~~

14 (3) prices for purchasing manifests; **and**

15 (4) disposal fees;

16 ~~contained~~ **provided for** in this chapter are established.

17 SECTION 22. IC 13-22-12-3.5 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2014]: Sec. 3.5. (a) For the disposal of
20 hazardous waste in Indiana, the fees are as follows:

21 (1) For hazardous waste disposed of in a disposal facility,
22 eleven dollars and fifty cents (\$11.50) per ton. If hazardous
23 waste is mixed with or dissolved or suspended in water or
24 another liquid at the time it is disposed of in a disposal
25 facility, the entire mixture, solution, or suspension disposed of
26 is considered hazardous waste disposed of in a disposal facility
27 for the purposes of this subdivision.

28 (2) For hazardous waste disposed of by underground
29 injection, eleven dollars and fifty cents (\$11.50) per ton.
30 However, a person required to pay disposal fees under this
31 subdivision is not liable for more than twenty-five thousand
32 dollars (\$25,000) in disposal fees under this subdivision for all
33 hazardous waste disposed of by the person by underground
34 injection in one (1) calendar year.

35 (b) Fees imposed under subsection (a)(1) shall be paid by the
36 operator of the disposal facility at which the hazardous waste is
37 disposed of. For hazardous waste disposed of by underground
38 injection at a location other than a disposal facility, the fee imposed
39 on the disposal of the hazardous waste under subsection (a)(2) shall
40 be paid by the person disposing of the hazardous waste.

41 (c) Fees imposed under this section shall be paid quarterly to the
42 department in the manner prescribed by the department. However,



1 the department is not required to assess quarterly payments
 2 separately. Fees under this section begin accruing on January 1 of
 3 each year.

4 (d) The fees imposed under this section shall be based on the
 5 total tonnage of hazardous waste disposed of. The fees do not apply
 6 to the treatment or storage of hazardous waste in a disposal
 7 facility.

8 (e) The fees collected under this section shall be deposited and
 9 paid over as provided in section 3.6 of this chapter.

10 SECTION 23. IC 13-22-12-3.6 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2014]: Sec. 3.6. (a) The fees collected under
 13 section 3.5 of this chapter upon the disposal of a quantity of
 14 hazardous waste shall be deposited and paid over as follows:

15 (1) Seventy-five percent (75%) shall be deposited in the
 16 hazardous substances response trust fund established by
 17 IC 13-25-4-1.

18 (2) Twenty-five percent (25%) shall be paid over to the county
 19 in which the hazardous waste is disposed of.

20 (b) Except as provided in subsection (e), and subject to
 21 subsections (f) and (g), the revenue paid over to the county under
 22 subsection (a)(2) shall be deposited in a separate fund established
 23 by the county for the purposes of the following:

24 (1) Establishing monitoring wells on land near the site of the
 25 disposal facility.

26 (2) Analyzing samples from the monitoring wells established
 27 under subdivision (1).

28 (3) Conducting other types of testing and surveillance for
 29 hazardous waste contamination of land near the disposal
 30 facility.

31 (4) Providing training for county and local public health and
 32 public safety officers in the proper procedures for dealing
 33 with emergencies involving hazardous substances or
 34 hazardous waste.

35 (5) Providing special clothing and equipment needed by
 36 county and local public health and public safety officers for
 37 dealing with emergencies involving hazardous substances or
 38 hazardous waste.

39 (6) Funding research on alternatives to land disposal as a
 40 means of eliminating hazardous waste.

41 (7) Paying the cost of hazardous waste, hazardous substance,
 42 or solid waste removal and remedial action at a site located



1 within the county.

2 (8) Meeting the county's requirements under IC 13-21 for the
3 planning and implementation of a solid waste management
4 district plan.

5 (9) Paying the costs associated with the construction or
6 rehabilitation of a facility used for training described in
7 subdivision (4).

8 (10) Paying the costs associated with any other project that
9 has identifiable environmental benefits.

10 (11) Paying the costs associated with the construction,
11 structural rehabilitation, and equipment of a facility used for
12 either of the following purposes:

13 (A) A county public safety central dispatch.

14 (B) A county emergency operations center.

15 (12) Paying costs associated with the maintenance or repair of
16 county roads.

17 (13) Paying for the costs of county ambulance service.

18 (c) The county fund established under subsection (b) shall be
19 administered by the county treasurer, and the expenses of
20 administering the fund shall be paid from money in the fund.
21 Money in the fund not currently needed to meet the obligations of
22 the fund may be invested in the same manner as other public funds
23 may be invested. Interest that accrues from these investments shall
24 be deposited in the fund. Money in the fund at the end of a
25 particular fiscal year does not revert to the county general fund.

26 (d) No money in the county fund established under subsection
27 (b) shall be used for activities authorized in subsection (b)(8) or
28 (b)(9) until the purposes listed in subsection (b)(1) through (b)(7)
29 have been fulfilled.

30 (e) Subsection (b)(9), (b)(10), and (b)(11) do not apply to a
31 county having a population of more than three hundred thousand
32 (300,000) but less than four hundred thousand (400,000).

33 (f) The county may not pay from the county fund established
34 under subsection (b) in a calendar year for the purposes set forth
35 in subsection (b)(11) an amount that exceeds ten percent (10%) of
36 the balance in the fund as of January 1 of that calendar year.

37 (g) If a county expends money in the county fund established
38 under subsection (b) for the maintenance or repair of county roads,
39 the county may not annually expend more than ten percent (10%)
40 of the balance in the fund (as determined on January 1 of the
41 calendar year in which the expenditures are made) for those
42 purposes.



1 (h) A fund established by a county under IC 6-6-6.6-3 before its
2 repeal:

3 (1) satisfies the requirement of subsection (b) that a county
4 establish a fund;

5 (2) shall be administered under subsection (c); and

6 (3) is in all other respects subject to this section.

7 (i) Money deposited in a fund established by a county under
8 IC 6-6-6.6-3 before its repeal:

9 (1) may remain in the fund; and

10 (2) may be used for the purposes set forth in subsection (b),
11 subject to subsections (d) through (g);

12 notwithstanding the repeal of IC 6-6-6.6-3.

13 SECTION 24. IC 13-23-12-2 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. If the total amount
15 of the fees owed under this article exceed five hundred dollars (\$500),
16 the fee payer has the option of paying the annual fees in four (4) equal
17 installment payments. The department of state revenue shall establish
18 a payment schedule to implement this section.

19 SECTION 25. IC 13-23-12-3 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. Except as provided
21 by section 2 of this chapter, the fee required by section 1 of this chapter
22 shall be paid annually in accordance with a payment schedule
23 established by the department. of state revenue. The fee payment form
24 provided by the department of state revenue must accompany the fee
25 payment.

26 SECTION 26. IC 13-23-12-4 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. The department of
28 state revenue shall collect the fees paid under this chapter and deposit
29 the fees as follows:

30 (1) Fees paid in connection with underground petroleum storage
31 tanks shall be deposited as follows:

32 (A) Forty-five dollars (\$45) shall be deposited in the excess
33 liability trust fund.

34 (B) Forty-five dollars (\$45) shall be deposited in the petroleum
35 trust fund.

36 (2) Fees paid in connection with underground storage tanks used
37 to contain regulated substances other than petroleum shall be
38 deposited as follows:

39 (A) Forty-five dollars (\$45) shall be deposited in the
40 hazardous substances response trust fund.

41 (B) Two hundred dollars (\$200) shall be deposited in the
42 excess liability trust fund.



1 SECTION 27. IC 13-23-12-5 IS REPEALED [EFFECTIVE JULY
2 1, 2014]. Sec. 5: (a) The department of state revenue shall provide each
3 person who pays a fee under this chapter with a receipt and a copy of
4 the receipt. The receipt or the copy of the receipt shall be maintained
5 at:

6 (1) the place of business where the underground storage tank is
7 located; or

8 (2) if no place of business exists where the tank is located; the
9 place of business or residence of the owner of the tank.

10 (b) The owner of the tank shall produce the receipt for inspection at
11 the request of any authorized representative of the department or the
12 state fire marshal.

13 SECTION 28. IC 13-23-12-6 IS REPEALED [EFFECTIVE JULY
14 1, 2014]. Sec. 6: At least thirty (30) days before payment of a fee is due
15 in accordance with the schedule established under section 3 of this
16 chapter, the department of state revenue shall attempt to notify each
17 owner of an underground storage tank who has submitted notification
18 to the department as required under 42 U.S.C. 6991a(a) of the
19 requirements of this chapter.

20 SECTION 29. IC 13-25-4-1 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) The hazardous
22 substances response trust fund is established. The purpose of the fund
23 is to accumulate and maintain a source of money for the following
24 purposes:

25 (1) Financing contracts or cooperative agreements between the
26 state and the President of the United States under Section 104 of
27 CERCLA (42 U.S.C. 9604).

28 (2) Providing state assistance in the form of supplies, materials,
29 services, and equipment to:

30 (A) prevent the release of a hazardous substance or
31 contaminant; or

32 (B) control, contain, isolate, neutralize, remove, store, or
33 dispose of any hazardous substance or contaminant already
34 released into or on the air, land, or waters of Indiana.

35 (3) Financing response actions that are:

36 (A) undertaken or authorized by the commissioner with
37 respect to sites in Indiana; and

38 (B) considered by the commissioner to be necessary to protect
39 the public health or welfare or the environment from the
40 release or threatened release of a hazardous substance or
41 contaminant.

42 (4) Paying expenses related to releases of regulated substances



other than petroleum from underground storage tanks under IC 13-23-13-7.

(5) Paying administrative and personnel expenses incurred by the state in responding to releases or threats of releases of hazardous substances or contaminants.

(6) Paying claims for the reimbursement of necessary response costs incurred by persons that have received preauthorization from the commissioner for reimbursement.

(7) Providing grants for household hazardous waste and conditionally exempt small quantity generator waste collection, recycling, or disposal projects under IC 13-20-20.

(8) Paying administrative and personnel expenses incurred by the department in implementing and administering household hazardous waste and conditionally exempt small quantity generator waste collection, recycling, or disposal projects under IC 13-20-20.

(9) Transferring funds to the environmental remediation revolving loan fund established by IC 13-19-5-2.

(10) Paying administrative and personnel expenses incurred by the state in evaluating proposed modifications of restrictive covenants required under section 24(e) of this chapter.

(b) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 30. IC 13-25-4-2, AS AMENDED BY P.L.38-2012, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. The sources of money for the fund are the following:

~~(1) Revenue produced by the levy under IC 6-6-6.6: Fees paid under IC 13-22-12-3.5 for the disposal of hazardous waste.~~

(2) Any payment to the state or the fund as:

(A) reimbursement for amounts expended by the state in a response action; ~~or~~

(B) reimbursement of administrative and personnel expenses incurred by the state in evaluating proposed modifications of restrictive covenants required under section 24(e) of this chapter; or

~~(B)~~ (C) a settlement or judgment stemming from a lawsuit by the state or federal government to recover amounts expended by the state in a response action, including recoveries under section 10 of this chapter.

(3) Accrued interest and other investment earnings of the fund.

(4) Fees paid under IC 13-23-12-4(2) by owners and operators of



underground storage tanks used to contain regulated substances other than petroleum.

(5) Appropriations made by the general assembly and gifts and donations from private and public entities intended for deposit in the fund.

(6) Grants and other payments made by the United States government under:

(A) the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) in relation to regulated substances other than petroleum;

or

(B) CERCLA.

(7) Money received from responsible parties under agreements under section 23 of this chapter for response actions at specific sites.

SECTION 31. IC 13-25-4-7, AS AMENDED BY P.L.133-2012, SECTION 154, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. **(a)** The board shall adopt rules **under IC 4-22-2 and IC 13-14-9** establishing criteria for determining the commissioner's priorities in selecting hazardous substance response sites. Until ~~these~~ rules have been adopted **under this subsection**, the commissioner shall give priority to those sites presenting a significant threat to public health and environment.

(b) The board shall adopt rules under IC 4-22-2 and IC 13-14-9 providing for the recovery of administrative and personnel expenses incurred by the state in evaluating proposed modifications of restrictive covenants required under section 24(e) of this chapter.

SECTION 32. IC 13-25-4-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 24. (a) This section applies to real property that is:

(1) the site of an existing or former hazardous waste facility that is or was subject to regulation under:

(A) IC 13-22-2 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14; or

(B) Subchapter III of the federal Solid Waste Disposal Act (42 U.S.C. 6921 through 6939e); or

(2) a site:

(A) on which a hazardous substance has been:

(i) deposited;

(ii) stored; or

(iii) disposed of; and

(B) that is or was listed on the Comprehensive Environmental



- 1 Response, Compensation, and Liability Information System
 2 (CERCLIS) in accordance with Section 116 of CERCLA (42
 3 U.S.C. 9616);
 4 if more than an insignificantly small amount of a hazardous substance
 5 remains on or beneath the surface of that property after the partial or
 6 final closure of a hazardous waste facility located on the property or the
 7 completion of a remedial action on the property under CERCLA or this
 8 chapter.
 9 (b) The owner of real property described in subsection (a) shall
 10 execute and record, in the office of the county recorder of the county
 11 in which the property is located, a restrictive covenant applying to the
 12 property if the commissioner determines that a restrictive covenant
 13 meeting the requirements set forth in subsection (c) is necessary to
 14 protect the public health or welfare or the environment from
 15 unreasonable risk of future exposure to a hazardous substance.
 16 (c) A restrictive covenant required under this section must:
 17 (1) to the extent feasible, describe:
 18 (A) the identity, quantity, and location of every hazardous
 19 substance:
 20 (i) deposited;
 21 (ii) stored;
 22 (iii) disposed of; or
 23 (iv) placed;
 24 on the property; and
 25 (B) the extent to which each hazardous substance remains on
 26 the property; and
 27 (2) incorporate the conditions and restrictions that the
 28 commissioner considers necessary to assure that the future use of
 29 the property will not disturb the final cover, any liners, or any
 30 components of the hazardous substance containment system on
 31 the property, or disturb the function of the monitoring system on
 32 the property, unless the commissioner finds that the disturbance:
 33 (A) is necessary to the proposed use of the property and will
 34 not increase the potential hazards to human health or to the
 35 environment; or
 36 (B) is necessary to mitigate a threat to human health or to the
 37 environment.
 38 (d) If a change of conditions or advancements in science or
 39 technology permit an alteration in the conditions and restrictions
 40 imposed by a restrictive covenant required by this section that would
 41 not increase the potential hazards to human health or to the
 42 environment, the commissioner ~~upon written request by the owner of~~



the real property, may **under subsection (e)** authorize the filing of a supplemental recording recognizing a change in the restrictive covenant in the office of the county recorder to reflect the change in the conditions and restrictions.

(e) The commissioner may authorize the filing of a supplemental recording recognizing a modification of a restrictive covenant under subsection (d) if the owner of the real property submits to the department:

- (1) a written request for the modification of the covenant;**
- (2) a copy of the proposed modification of the restrictive covenant; and**
- (3) information indicating why the covenant should be modified.**

The information submitted under subdivision (3) must be sufficient to enable the department to determine whether the proposed modification of the restrictive covenant will increase the potential hazards to human health or the environment. The commissioner may request additional information from the owner of the real property if necessary to the making of a determination under this subsection.

SECTION 33. IC 35-51-13-1, AS ADDED BY P.L.70-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. The following statutes define crimes in IC 13:

- IC 13-18-8-9 (Concerning water pollution control).
- IC 13-18-13-31 (Concerning water pollution control).
- IC 13-18-21-31 (Concerning water pollution control).
- IC 13-19-5-17 (Concerning environmental remediation revolving loan program).
- IC 13-20-13-17 (Concerning solid waste management).
- IC 13-20-22-19 (Concerning solid waste management).
- ~~IC 13-20-22-20 (Concerning solid waste management).~~
- IC 13-20-22-21 (Concerning solid waste management).
- IC 13-23-7-9 (Concerning underground storage tanks).
- IC 13-23-9-6 (Concerning underground storage tanks).
- IC 13-25-4-28 (Concerning hazardous substances).
- IC 13-29-1-14 (Concerning Midwest Interstate Compact on Low-Level Radioactive Waste).
- IC 13-30-10-1 (Concerning the environment).
- IC 13-30-10-1.5 (Concerning the environment).
- IC 13-30-10-5 (Concerning the environment).
- IC 13-30-10-6 (Concerning the environment).



COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1342, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1342 as introduced.)

Committee Vote: Yeas 12, Nays 0

Representative Wolkins

HOUSE MOTION

Mr. Speaker: I move that House Bill 1342 be amended to read as follows:

Page 11, delete lines 11 through 39.

Re-number all SECTIONS consecutively.

(Reference is to HB 1342 as printed January 24, 2014.)

WOLKINS

HOUSE MOTION

Mr. Speaker: I move that House Bill 1342 be amended to read as follows:

Page 11, line 8, delete "in the" and insert "**and paid over as provided in section 3.6 of this chapter.**".

Page 11, delete lines 9 through 10, begin a new paragraph and insert:

"SECTION 23. IC 13-22-12-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 3.6. (a) The fees collected under section 3.5 of this chapter upon the disposal of a quantity of hazardous waste shall be deposited and paid over as follows:**

(1) Seventy-five percent (75%) shall be deposited in the hazardous substances response trust fund established by IC 13-25-4-1.

(2) Twenty-five percent (25%) shall be paid over to the county in which the hazardous waste is disposed of.

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(b) Except as provided in subsection (e), and subject to subsections (f) and (g), the revenue paid over to the county under subsection (a)(2) shall be deposited in a separate fund established by the county for the purposes of the following:

- (1) Establishing monitoring wells on land near the site of the disposal facility.
- (2) Analyzing samples from the monitoring wells established under subdivision (1).
- (3) Conducting other types of testing and surveillance for hazardous waste contamination of land near the disposal facility.
- (4) Providing training for county and local public health and public safety officers in the proper procedures for dealing with emergencies involving hazardous substances or hazardous waste.
- (5) Providing special clothing and equipment needed by county and local public health and public safety officers for dealing with emergencies involving hazardous substances or hazardous waste.
- (6) Funding research on alternatives to land disposal as a means of eliminating hazardous waste.
- (7) Paying the cost of hazardous waste, hazardous substance, or solid waste removal and remedial action at a site located within the county.
- (8) Meeting the county's requirements under IC 13-21 for the planning and implementation of a solid waste management district plan.
- (9) Paying the costs associated with the construction or rehabilitation of a facility used for training described in subdivision (4).
- (10) Paying the costs associated with any other project that has identifiable environmental benefits.
- (11) Paying the costs associated with the construction, structural rehabilitation, and equipment of a facility used for either of the following purposes:
 - (A) A county public safety central dispatch.
 - (B) A county emergency operations center.
- (12) Paying costs associated with the maintenance or repair of county roads.
- (13) Paying for the costs of county ambulance service.

(c) The county fund established under subsection (b) shall be administered by the county treasurer, and the expenses of



administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the county general fund.

(d) No money in the county fund established under subsection (b) shall be used for activities authorized in subsection (b)(8) or (b)(9) until the purposes listed in subsection (b)(1) through (b)(7) have been fulfilled.

(e) Subsection (b)(9), (b)(10), and (b)(11) do not apply to a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(f) The county may not pay from the county fund established under subsection (b) in a calendar year for the purposes set forth in subsection (b)(11) an amount that exceeds ten percent (10%) of the balance in the fund as of January 1 of that calendar year.

(g) If a county expends money in the county fund established under subsection (b) for the maintenance or repair of county roads, the county may not annually expend more than ten percent (10%) of the balance in the fund (as determined on January 1 of the calendar year in which the expenditures are made) for those purposes.

(h) A fund established by a county under IC 6-6-6.6-3 before its repeal:

- (1) satisfies the requirement of subsection (b) that a county establish a fund;
- (2) shall be administered under subsection (c); and
- (3) is in all other respects subject to this section.

(i) Money deposited in a fund established by a county under IC 6-6-6.6-3 before its repeal:

- (1) may remain in the fund; and
- (2) may be used for the purposes set forth in subsection (b), subject to subsections (d) through (g);

notwithstanding the repeal of IC 6-6-6.6-3."

Renumber all SECTIONS consecutively.

(Reference is to HB 1342 as printed January 24, 2014.)

BAIRD



COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1342, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1342 as printed January 30, 2014.)

Committee Vote: Yeas 8, Nays 0

Senator Charbonneau, Chairperson

